



REP. MICHAEL J. OBUCHOWSKI, CHAIR  
SEN. ANN CUMMINGS, VICE-CHAIR  
SEN. DIANE SNELLING, CLERK  
REP. JANET ANCEL  
SEN. SUSAN BARTLETT

REP. MARTHA HEATH  
REP. MARK LARSON  
SEN. RICHARD SEARS, JR.  
SEN. PETER SHUMLIN  
REP. RICHARD WESTMAN

**STATE OF VERMONT**  
LEGISLATIVE JOINT FISCAL COMMITTEE

Thursday, July 16, 2009

Minutes

Members Present: Representatives Obuchowski, Ancel, Heath, Larson, and Westman, and Senators Bartlett, Cummings, Sears, Shumlin, and Snelling.

Other Attendees: Senators Brock, and Doyle, and Representatives Branagan, Fisher, Hooper, M. Johnson, Nease, Shand, and Webb. Joint Fiscal, Legislative Council, and administration staff, various media, lobbyists, advocacy groups, and members of the public.

The Chair, Representative Obuchowski, called the meeting to order at 9:35 a.m. and asked for a motion to approve the minutes of the February 12, 2009 meeting. Representative Heath made the motion and Senator Snelling seconded, and the minutes were approved.

**2. FISCAL OFFICERS REPORT** *a. Issues for action/approval I. Contracts*

Stephen Klein, Chief Fiscal Officer, explained impending Joint Fiscal contracts up for renewal. The Legislative Joint Fiscal Office (JFO) proposed that Tom Kavet's (Legislative Economist) contract for revenue estimating be extended for one year and renegotiated for the interim. The Committee agreed to allow JFO to renegotiate Kavet's contract by the September 30 end date and put it forth to the Committee for its approval. Mr. Klein proposed extending Steve Kappel's and Deb Brighton's contract for one-year and informed the Committee that the Arnie Gundersen contract of Fairewinds Associates (Vermont Yankee consultant) was approved by telephone poll. Committee approved all contracts.

*II. Current Use Subcommittee Consideration*

Mr. Klein proposed a subcommittee be appointed to assist the Committee in filling its requirements of Sec. 81 of Act 54 (H.313) of the 2009 session for developing a recommendation for reducing current use by at least \$1.6 million. The subcommittee could then convene a more formal process of public meetings and return in November to the Committee with its recommendations for final approval. Representative Heath commented that a subcommittee was a good way for the Committee to fulfill its responsibilities before the 2010 session. Representative Obuchowski asked for volunteers, and Senator Snelling and Representative Ancel were appointed.

*III. Education Fund Stabilization Reserve*

Mark Perrault, Fiscal Analyst for JFO, handed out an updated education fund outlook that included FY2009, FY2010, and FY2011. The intent of the education stabilization reserve fund,

created in 16 V.S.A. § 4026, is that the fund be kept within 3 ½% and 5% of the total fund balance, but the fund has recently dropped to 3.45%, which warranted notification to the Committee. The reasons for the drop are that there was a revenue downgrade for FY2010 and projections were below anticipated funds. In order to bring the reserve fund within intended levels, FY2011 tax rates would need to rise by 1 cent, bringing the fund up to 4.8%. Mr. Perrault explained the Committee would need to deliberate on any changes to the education tax rate at its November meeting, after the consensus revenue forecast is released. The Committee considered itself informed.

*b. Report on Global Commitment – Catamount and Medicaid Caseload Expenditures*

Stephanie Barrett, Fiscal Analyst for JFO, handed out a packet of information and explained that in Act 4 of the 2009 session, Emergency Board requirements of Medicaid changed, requiring a year-end report. Key issues are that enrollment ended higher and expenditures were a little lower than expected in FY2009, which was anticipated in the FY2010 budget that included \$11 million in reductions. The FY2009 Global Commitment Fund (GCF) ended with a positive balance, but since enrollment was higher than expected, some payments would be expended from the FY2010 budget. The FY2009 GCF showed a projected gross balance of \$14 million, and the state share was estimated at \$4.2-\$4.3 million at the current enhanced Federal Medical Assistance Percentages (FMAP).

Ms. Barrett reported on the Catamount and State Health Care Resources Funds (SHCRF). The SHCRF ended FY2009 with a \$1.4 million deficit, growing to \$3.7 million in FY2010, which would need addressing in budget adjustment. Potentially the up in the state's share of the GCF could be used to offset the down in the SHCRF deficit. The Catamount Fund ended in FY2009 with a \$7 million balance and was estimated to end with a \$4 million balance in FY2010. New federal estimates available in September would assist JFO in producing any budget adjustments.

Senator Bartlett questioned what the implications were, within Medicaid (GCF), for encouraging Medicaid-eligible individuals to utilize state services. Ms. Barrett explained that there was an opportunity to reset actuarial rates in September if the demand increased in a particular Medicaid program for increased federal funding.

**3. Other Fiscal Issues** *a. BISHCA Transfer of Unencumbered Balances*

Paulette Thabault, Commissioner of the Department of Banking, Insurance, Securities, and Health Care Administration (BISHCA), provided a handout and explained that BISHCA brought in more funds than anticipated during FY2009, and therefore, \$19 million of unencumbered funds could be transferred to the General Fund. Overages included: an overestimate of \$1.6 million in the securities fund, relating to a fee increase in 2009; a number of mass transfers occurred as a result of mergers and acquisitions; and licensed individuals switching companies paid an additional registration fee. The Insurance Fund overage occurred from a greater than expected amount of license renewals, for which the ability to file electronically may have been a contributing factor. Also, other states increased their fees last year, and Vermont benefited from those retaliatory fees of nonresidents. There are some vacancy savings and reductions in the personal services contract expenditures in the past. The

Captive Insurance Fund had an overage from budget savings and additional premium tax not projected.

Commissioner Thabault noted that the biannual approval of the Insurance Fund was due for renewal and projected \$5 million for the FY2011 fund. The Chair asked for a motion to transfer unencumbered balances to the GF. Representative Heath moved the transfer and Representative Larson seconded. The Committee approved the transfer of \$19 million to the GF.

*b. Preliminary Update on the Retirement Incentive*

Michael Clasen, Office of the Treasurer, handed out 2 documents. Thus far, the office has received 276 applications for the retirement incentive. Due to confidentiality purposes, very small departments are listed under the category of "other" on the retirement incentive handout, and those 38 individuals represent 18 departments. Applicants have until July 31 to apply for the retirement incentive program, and the treasurer's office anticipates a flurry of applications prior to the deadline. A lottery would be declared if applications exceed the 300 cap, the participants would be notified of the lottery and assigned a number. On August 10, the treasurer's office will hold an informational session for applicants on anticipated retirement funds and by the middle of August, applicants would need to confirm their commitment to the program. It is expected that some applicants may choose not to commit to the retirement incentive and continue service.

The Committee questioned why a lottery is needed if applications were not expected to exceed the Governor's recommendation of 325. Mr. Clasen responded that the language from Sec. 13 of Act 2 of the SS2009 referred to a lottery system if more than 300 state employees applied. Representative Heath suggested that Act 2 stated that if the numbers of applicants are not significantly over 300, JFC may authorize that new number.

Senator Snelling commented that the vast number of state employees retiring has an enormous degree of knowledge, and stressed that there be a strong plan of filling those voids to decrease the impacts on departments and services. Mr. Clasen offered that the departments will have the ability to stagger retirement dates so that programs would not be affected in a harmful way.

Representative Larson asked for clarification on the one-third vacant positions eliminations and also inquired whether an analysis had been done on where the current applicant positions fit in with those reductions. Mr. Clasen stated that he was not aware of such an analysis but suggested that until all applicants were confirmed, it was too early to have a complete picture of where those potential vacancy reductions would occur. He suggested that a conversation with the administration was important to the follow-up process in determining those vacancy reductions and program impacts.

Senator Bartlett referred to the administrations "Alternative Savings Plan," and questioned whether the total number of applicants would exceed the plan's 325 estimate. Mr. Clasen stated that the treasurer's office envisioned that some applicants may not go through with the retirement incentive plan after estimates of monthly retirement benefits are sent out the first week of August.

Senator Sears expressed concern for the lack of staffing in the judiciary branch from earlier reductions, and that in Bennington County, courts were already in reduced hours of operation. Representative Heath stressed that any concerns on the retirement incentive vacancy reductions, in regard to the judiciary branch, should be relayed to the administration as that agency will be in charge of developing a plan.

Representative Obuchowski asked the treasurer's office to provide the Committee with copies of the letter describing the plan process mailed to state employees, and Mr. Clasen complied with a handout. The Committee strongly recommended that the treasurer's office abstain from a lottery until a definitive number is presented to the Committee at its August 5 meeting.

*c. Preview of Rutland Regional Medical Center (RRMC) process*

Michael Hartman, Commissioner of the Department of Mental Health, handed out information and gave an overview of the current status on the RRMC funding plan. The number of beds the department is currently proposing for replacement is 12, and the goal is to devise a financing plan that would not put the debt upon the state or the RRMC. There is a need to replace all the beds, and discussions have been ongoing with the legislature and administration since 2004. Currently the department has developed a large number of options that include housing contingency funds, crisis and long-term programs around the state of 35 new long-and short-term beds. In addition, there is a plan for 15 beds for a secure residential facility located in Waterbury, which was approved in Act 43 of the 2009 session. This would reduce the need for approximately 32 inpatient beds for individuals that are in need of acute care within a secure environment.

Commissioner Hartman explained that Act 43 allows JFO to hire an independent consultant to assist in developing a financial plan process. The department offered to return during the Committee's August meeting with a further update. A proposed financial plan will be presented to the Committee and the Mental Health Oversight Committee at the Legislative Joint Fiscal Committee's (JFC) September 10 meeting. A final proposed plan would be forwarded to the same 2 committees for final deliberation at JFC's November meeting. If the proposed plan were rejected, then all work on the plan would cease. Consultants utilized for the financial plan include individuals from the Public Finance Management Group and Scott Whitman. A prospectus will be presented of a third party management system that would build a 25-bed unit leased to RRMC to include the 12 patients from the Vermont State Hospital. A payer funding stream is proposed to finance the new program through reimbursement of Medicaid and Medicare rates. The department plans to present a prospectus to 2 major financial institutions for consideration of extending a letter of credit for implementation of the plan.

*d. Grant Reduction Plan*

Robert Hofmann, Secretary of the Agency of Human Services, referred to an enclosure explaining the action taken from Sec. B.1104(b) of Act 1 of the SS2009. Representative Heath thanked Commissioner Hofmann for a well-thought-out plan.

*1. Chittenden County Pilot program*

Barbara Cimaglio, Deputy Commissioner of the Department of Health, explained that Sec. E.300(f) of Act 1 of the SS2009 required the department to make available \$500,000 for operating expenses for the Chittenden County Pilot program. The department has had preliminary discussions with Maple Leaf Farm, Howard Center of Human Services, providers, Senator Bartlett, and the administration on the legislative intent of Act 1 and a plan to proceed. The first step is for the providers to submit a detailed plan and budget in August that would trigger another meeting between the department and other stakeholders.

2. *Draft rules/procedure for establishing rates for Maple Leaf Farm, Serenity House, and Valley Vista (residential providers)*

Deputy Commissioner Cimaglio handed out information on a rate determination process for residential providers. Senator Snelling stated that since the Committee just received the information, more time was needed to digest the contents before she commented. Senator Bartlett expressed frustration of the waste of resources it has taken over the past 2 plus years for the providers and the administration to come to a final decision. She suggested that some of the members of the appropriations committees be included in the conversations to bring the issue to a finale. Senator Snelling suggested that a subcommittee of JFC members be appointed to assist in discussions and decision-making regarding the residential provider issue. Representative Obuchowski appointed Senators Bartlett, Sears, Shumlin, and Snelling, and Representative Heath.

3. *Treatment Services Reduction and Disbursement of Funds to Providers Plan*

Deputy Commissioner Cimaglio handed out information and highlighted the areas in which the department planned to reduce GF funding by \$150,000 in the Division of Alcohol & Drug Abuse Programs (ADAP). Ms. Cimaglio responded to Representative Heath's question that Valley Vista was not included in the reductions since the department had been working to restructure and reduce Valley Vista's contract because of underutilized funds. Representative Heath inquired why those contract savings were not used to achieve the GF reduction plan amount. Ms. Cimaglio reasoned that it was how the department chose to formulate the plan. Senator Snelling asked the department to rethink the reduction plan and include the contract savings from Valley Vista and adjust the other three residential service providers' reductions accordingly to meet the \$150,000 plan goal. She also asked what the distribution was for services and an estimate on how many uninsured clients would not be served due to the reductions. Ms. Cimaglio agreed to forward that information and explained that the savings from Valley Vista were planned to help the department meet its FY2010 budget. Senator Snelling suggested this issue be discussed with the subcommittee for ADAP appointed in agenda item 3.e.2.

Jim Giffin, Chief Financial Officer for the Agency of Human Services, commented that the agency had been meeting on the Valley Vista contract issue for at least 2 years and has amended the plan twice. The reduction explanation is dependent on the interpretation of the amended contract and hard to quantify an amount of savings, but the agency will attempt to be clearer going forward. Representative Heath asked that the contract details include a dollar amount.

#### **4. Preliminary Closeout Report**

James Reardon, Commissioner of the Department of Finance & Management, handed out information on FY2009 closeout data (handout has technical error: “Higher Education Trust Fund” under \*comments). In the GF, revenues are up \$14.5 million above targets developed at the April Emergency Board hearing. The BISHCA transfer to the GF will be higher than originally estimated but will be in part offset by the overestimated abandoned property amount. Once everything is closed for FY2009, it is estimated that there will be a surplus in the GF of \$7.5 million. The Stabilization Reserve Fund should be on target for 5% of the state budget. Areas of budget pressure include the Low Income Heating and Energy Assistance Program (LIHEAP), and the anticipated revenue downgrade presented at the Emergency Board at 1:00 p.m. The department will return to the Committee with final closeout numbers at its September 10 meeting.

The Chair polled the Committee on two dates for next meetings: August 5 to receive a report on the retirement incentive program, an update on RRMC, and to receive a report on the Web Portal fees, and September 10. If a budget rescission discussion is imminent, then the August meeting will start at 11:00 a.m.

The Chair referenced the list of reports on the agenda for informational purposes and asked members to list any reports they felt were redundant and no longer needed (note: each agenda will include different reports due).

#### **5. Revenue Update and Discussion**

Tom Kavet, Legislative Economist, explained and handed out a July 2009 Economic Review and Revenue Forecast Update, and a color graph of a Dow Jones Industrial Average index. Mr. Klein explained that one of the complicating factors of the revenue forecast of April through July 2009 was that the legislature raised revenue within that time frame. The chart “Budget Impact of Revenue Forecast” (see on page 4 of Kavet handout) attempts to explain those differences.

Mr. Klein agreed with Representative Larson’s comment that more or different cuts in the FY2010 budget would not have made a difference in the hole the state is faced with because revenue decline would have occurred either way. Mr. Klein explained the Transportation Fund difference.

Mr. Kavet continued his revenue forecast update. Senator Sears asked if the housing market was better in some regions of Vermont than others. Mr. Kavet offered to do an analysis of Vermont’s housing market by region using the property transfer tax and Farmers’ Home Administration (FHA) data. Representative Westman inquired whether the data could be broken down to second homes as opposed to primary residences. Mr. Kavet responded that could be done but anecdotal data showed that more moderately priced housing was moving better. He warned that the housing market had not bottomed out yet, and any analysis could change quickly.

Mr. Kavet responded to Representative Ancel that the forecast did not reflect the recent tax changes in Act 1 but were layered on top of the data. He commented that Jeff Carr

(Governor's economist) foresees a potential upside in the 3<sup>rd</sup> quarter of the fiscal year due to stimulus assistance. Mr. Kavet responded to Senator Shumlin's comment that even though some market numbers were positive, many were still down, and that job losses create longer and more downturns in the market. Representative Obuchowski referred to page 22 of the first handout, focusing on the similarities of FY2005 and FY2010. Mr. Kavet agreed that the current economic downturn revealed an almost rolling of the clock backward because of the unprecedented 2-year decline in available revenues. Representative Obuchowski asked whether the FY2005 GF amount could be inflated by CPI to achieve the real number for FY2010. Mr. Kavet responded that it could be done using the CPI or with the levels of expenditure, which are what the revenues are supposed to match.

Representative Larson requested a topic for a future meeting for Mr. Kavet to give an analysis of the underlying background growth rate of similar programs such as VEGI. Mr. Kavet commented that programs such as VEGI "but for" test and the natural rate of growth in companies made it nearly impossible to assess an overall growth rate. Right now data are calculated by industry rather than by company and that should be reversed according to a previous state auditor's report. Representative Obuchowski appointed Representative Larson to put together a recommendation for a future meeting agenda.

Committee recessed for Emergency Board meeting at 12:20 p.m. and reconvened at 2:30 p.m.

## **6. Alternative Savings Plan – Position savings, reductions, and plan report**

### *a. Context of Legislation - Sec. 10(d) of Act 2 of the SS2009*

Mr. Klein explained the context of the cost reduction plan position savings. The administrations' reduction plan did not exceed the 1% position reductions cap, in which Act 2 required the Committee to take action. Representative Obuchowski asked Mr. Klein to clarify that the Committee had no jurisdiction to take action on the plan, and Mr. Klein agreed the report was purely informational.

### *b. Plan Review*

Commissioner Reardon handed out the plan and a larger scaled spreadsheet of the tables within the plan report for better readability. Act 2 required the administration to develop a plan that would save \$13.4 million in personal services workforce and an additional \$1.3 million in personal services contracts. He commented the plan covered the personal services workforce savings but the personal services contract savings plan is still in the early stages of development, and promised the latter would be presented to the Committee when completed. Representative Heath asked if the plan would change the amount of pay act departments were anticipating. Commissioner Reardon responded that pay the act is an estimated amount for all of state government, but departments would be revisited to assess needs. Departments are also allowed the option of returning pay act money to achieve savings instead of reducing the amount of anticipated funds. Representative Heath inquired about the judiciary and legislative branches as it seemed that those two branches were taking a much greater amount of reductions than the executive branch. Commissioner Reardon offered to inform the Committee of discussions with judiciary as they progressed.

Commissioner Reardon commented that if savings are not achievable in the retirement incentive plan, then further position reductions would be required. (Robert Greemore, Court Administration of the Vermont Supreme Court, voiced opposition as a representative to the judiciary branch on the plan's methodology - see letter messaged to the Committee.) Representative Heath inquired whether the reductions took into account the 5% reduction in pay previously taken by the judiciary and legislative branches. Commissioner Reardon responded it did.

Senator Cummings commented there were rumors that women close to retirement were targeted for the reduction in workforce initiative. Commissioner Reardon offered to provide information on the position reductions to the Senator. Representative Larson asked for an analysis of any additional money saved when transferring federal funds to replace state funds. Commissioner Reardon agreed that was an area worth investigating. Representative Ancel inquired whether the tax compliance initiative was included in the budget and how the position reductions that include some compliance officers may affect the initiative. Commissioner Reardon offered to send a response to the Committee once he had consulted with the tax department.

Commissioner Reardon in responding to Senator Sears' question explained that if the judiciary branch had positions within the retirement incentive program requiring a backfill, then that would need to be addressed. Representative Heath suggested that depending on where positions became vacant, that some in other departments may not be filled in order to assist judiciary in filling its positions first. She cautioned that the administration should be flexible in determining what positions out of the allowable one-third should be filled. Commissioner Reardon agreed and stated that it was a priority to plan well in advance of budget adjustment discussions. Representative Heath encouraged the administration to work closely with the legislative branch and the judiciary branch in determining what positions should be kept available and the commissioner agreed. Representative Heath applauded the administration for reaching the savings plan target and for staying under the 1% trigger. Commissioner Reardon promised the Committee, upon Representative Heath's request, that the one-third vacant position reductions would be determined for the September 10 meeting.

*c. Agency's response on impacts of reductions to programs and workflow for the Department of Environmental Conservation (DEC).*

Jonathan Wood, Secretary, Agency of Natural Resources (ANR), asked the Committee for questions on the alternative savings plan. Representative Heath inquired as to why there were some position reductions within the state environmental lab since the legislature gave additional funding to negate reductions. Secretary Wood explained that one position was a reduction in force (RIF) from the FY2009 rescissions, and one was from the FY2010 displacement process. Other areas of reductions within DEC were spread across the department in solid waste and environmental assistance. A budget adjustment modification for funded positions in the recycling educational outreach program will need to be spread out across the solid waste districts to assume some of those duties. Senator Bartlett queried whether positions in the solid waste division were funded by the fees generated by the division, and Secretary Wood responded that there was a significant amount funded by the fees. Secretary Wood clarified the other position reductions/vacancy savings as 4 positions in the solid waste division,



and 2 in the basement water programs. Representative Heath asked if the reduction in positions would have a negative effect on the permitting process, and Secretary Wood responded that it would not.

Christine Finley, Deputy Commissioner, Department of Health (VDH), explained that a lot has changed since the imminent news of the pandemic from the H1N1 virus. The department has been working to reestablish critical areas of response by reaching out to outside resources such as the visiting nurses to fill the voids from position reductions. Vermont's health department has been rated #1 in the country two years running, and it was important to the department to prioritize planning to continue that ranking. Areas of consolidation are reducing district directors from 12 to 8 and developing a regionalized response plan; supervisors/management team taking more of the job responsibilities; and the Women, Infant and Children program (WIC) electronic sign-up for assistance. In response to Senator Cummings, Ms. Finley stated that the department has never been faced with a mass vaccination process, but will utilize as many outside resources as available. Senator Bartlett inquired if there were new procedures for WIC home deliveries. Ms. Finley responded that the WIC program has seen some changes with additional benefits of fresh fruits and vegetables. The department has coordinated with the Department for Children and Families (DCF) to use its Electronic Benefit Transfer (EBT) program to enable clients to have easy access to those foods and to faze out home deliveries over time.

Commissioner Hofmann commented on central agency reductions and some facets of the alternative savings plan as a cost containment measure. The agency has made an attempt to hold those critical programs harmless to the best of its ability. In answering Senator Cummings question, gender was not an issue in determining position reductions. A position in DAIL will be bought back after reconsideration of workload. The field directors' positions were reduced from 12 to 8 since they were more highly compensated and could cover 2 districts per person instead of one. Representative Heath asked the commissioner to send a diagram of the combined counties that field directors would oversee.

Representative Larson inquired whether Reach-up coordinators would now receive ARRA funding instead of state funds. Commissioner Reardon offered to estimate a calculation for anticipated savings of federal replacement funds along with additional adjustments for positions moved from DCF's Reach-up services to the Department of Labor. Senator Bartlett explained that the positions were contracted to the Department of Labor to avoid R.I.Fs.

Joan Senecal, Commissioner of the Department of Disabilities, Aging and Independent Living (DAIL), explained the department's 27-position reductions by division. There was a sharp increase in adult protective services abuse complaints; therefore, a vacant position from vocational rehabilitation services was moved to adult protective services to hire an additional social worker for investigating complaints. Representative Heath expressed concern over the high volume of R.I.Fs to vocational rehabilitation (VR) counselors and inquired of the impacts. Commissioner Senecal detailed that 12 out of 27 department position reductions occurred in VR, with a total of 20 reductions since the start of the rescissions of the total 108 positions. Additional ARRA funding is available to VR to create incentives for employers to hire the disabled. Areas that may be affected include delayed evaluations and appointments.

Raeann Knopf, ARRA funds coordinator for Department of Education, explained the impacts on support and delivery to schools from the position reductions. There has been an increase in the number of schools that have been identified under the No Child Left Behind Act (NCLBA) and an increase in demand for ARRA funds. The department has been evaluating and updating systems used to move to more cost-saving electronic measures, and convening a governance commission on effective future savings. Representative Heath commented that the department seemed to have taken a disproportionate share of reductions and asked Ms. Knopf to outline the duties of the positions reduced and to compile a total number of reductions since the rescission process of FY2009.

*d. Vermont State Employees Association's response to the administration's Alternative Savings Plan (Position Reductions)*

Jes Krauss, Director of the VSEA, commented that the VSEA was pleased that the administration's alternative savings plan minimized the impact on state employees and incorporated the savings of the retirement incentive program. A total of 8% of the state's workforce has been reduced since the rescissions process of FY2009. Mr. Krauss described the impacts on services from the reductions and encouraged the legislature to continue discussing more options that include retirement initiatives.

Committee Adjourned at 4:30 p.m.

Respectively submitted,

---

Theresa Utton-Jerman, Joint Fiscal Office